

<b>ASSEMBLY BILL NO. 5</b>	<b>SENATE BILL NO. 608</b>
Homeless Person's Bill of Rights and Fairness Act	Right to Rest Act
53.2 (a) The existence of homelessness requires that fundamental rights that are amply protected in the home and in private places be extended to the public domain to ensure the equal rights of all Californians, homeless and housed. Every homeless person in the state shall have all of the following basic human rights and legal and civil protections, except when prohibited by federal law:	53.81 (a) Persons experiencing homelessness shall be permitted to use public space in the same manner as any other person, without discrimination based on their housing status.
	53.81 (b) Every person in the state shall have the following basic human and civil rights, that may be exercised without being subject to criminal or civil sanctions or harassment by law enforcement, or public or private security personnel, or <b>BID agents</b> :
53.2 (1) <b>The right to move freely</b> in the same manner as any other person in public spaces without being subject to criminal or civil sanctions, harassment or arrest by law enforcement, public or private security personnel, or <b>BID agents</b> because he or she is homeless.	53.81 (1) <b>The right to use and to move</b> freely in public spaces, without discrimination and without time limitations that discriminate based upon housing status.
53.2 (2) The right to rest in a public space in the same manner as any other person without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security or personnel, or <b>BID agents</b> because he or she is homeless, as long as that rest does not maliciously or substantially obstruct a passageway.	53.81 (2) The right to rest in public spaces <b>and to protect oneself from the elements, in a nonobstructive manner.</b>
53.2 (3) The right to eat, share, accept, or give food or water in public spaces in the same manner as any other person without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or <b>BID agents</b> because he or she is homeless.	53.81 (3) The right to eat, share, accept, or give food in any public space <b>in which having food is not otherwise generally prohibited.</b>
53.2 (8) The right to pray, meditate, or practice religion in public spaces in the	53.81 (4) The right to pray, meditate, worship, or practice religion in public

same manner as any other person, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or <b>BID agents</b> because he or she is homeless.	spaces, without discrimination based upon housing status.
53.2 (10) The right to occupy a motor vehicle, <b>as defined in Section 415 of the Vehicle Code</b> , or recreational vehicle, <b>as defined in Section 18010 of the Health and Safety Code</b> , <b>either to rest, sleep, or use for the purposes of shelter</b> , provided that the vehicle is legally parked on public property, without being subject to criminal or civil sanctions, harassment, or arrest from law enforcement, public or private security personnel, or <b>BID agents</b> .	53.81 (5) The right to occupy a motor vehicle or a recreational vehicle, provided that the vehicle is legally parked on public property <b>or parked on private property with permission of the property owner</b> .
53.2 (4) The right to solicit donations in public spaces in the same manner as any other person without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or <b>BID agents</b> because he or she is homeless.	
53.2 (5) The right to the same protections that law enforcement agencies afford any other person, including but not limited to, the right to reasonable protection from assault, domestic violence, sexual assault, or robberies.	
53.2 (6) The right to rest in a public space, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or <b>BID agents</b> , except that law enforcement may enforce existing local laws if all of the following are true: (1) the person's county of residence maintains 12 months per year of nonmedical assistance provided for in Section 17000 of the Welfare and Institutions Code for employable, able-bodied adults without dependents who are compliant with program rules established by the county, including	

work requirements; (2) the locality is not a geographical area identified by the United States Department of Labor in accordance with Subpart A of Part 654 of Section 20 of the Code of Federal Regulations as an area of concentrated unemployment or underemployment or an area of labor surplus; and (3) the public housing waiting list maintained by the county contains fewer than 50 persons.	
53.2 (7) The right to engage in lawful self-employment in the same manner as any other person, including, but not limited to, the right to seek self-employment in junk removal and recycling that requires the collection, possession, redemption, and storage of goods for reuse and recycling, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents because he or she is homeless.	
53.2 (9) The right to decline admittance to a public or private shelter or any other accommodation, including social services programs, for any reason he or she sees fit, without being subject to criminal or civil sanctions, harassment, or arrest from law enforcement, public or private security personnel, or <b>BID agents</b> .	
53.2 (11) The right to confidentiality of his or her records and information by homeless shelters, medical centers, schools, or any other publicly funded human service provider to law enforcement agencies, employers, or landlords, except that the records or information may be disclosed if the disclosure is based on appropriate legal authority. Disclosure of an individual's records or information shall not be allowed unless the individual received oral and written notice of the legal authority to disclose this information and the individual's right to opt out of having the records or information disclosed.	

<p>53.2 (12) (A) The right to assistance of counsel, if a county chooses to initiate judicial proceedings under any law set forth in Section 53.5. The accused shall be advised of this right to counsel before entering a plea, and any waiver of this right shall be explicit. If the district attorney's office or its agent is representing the state in any part of an infraction proceeding, the accused shall have the right to assistance of counsel with regard to that infraction.</p> <p>(B) The county where the citation was issued shall pay the cost of providing counsel under this paragraph.</p> <p>(C) This paragraph shall not be constructed to eliminate any protection or right to representation available under Sections 5365 and 6500 of the Welfare and Institutions Code or any other provision of law.</p>	
<p>53.6 (a) Any person whose rights have been violated under this part may enforced those rights in a civil action.</p> <p>(b) The court may award appropriate <b>injunctive and declaratory relief</b>, restitution for loss of property or personal effects and belongings, actual damages, compensatory damages, exemplary damages, statutory damages of one thousand dollars (\$1,000) per violation, and reasonable attorneys' fees and costs to prevailing plaintiff.</p>	<p>53.82 (a) Any person whose rights have been violated pursuant to this part may enforce those rights in a civil action.</p> <p>(b) The court may award <b>appropriate injunctive relief</b>, restitution for loss of property or personal effects and belongings, actual damages, compensatory damages, exemplary damages, statutory damages of one thousand dollars (\$1,000) per violation, and reasonable attorney's fees and costs to a prevailing party.</p>
<p>53.3 (a) A public employee shall not be retaliated against by his or her employer, for offering available public resources to a homeless person in order to protect that person from harm, including, but not limited to, offering or providing food, blankets, first-aid supplies, or water.</p> <p>(b) Any person or organization offering food or water in a public space to any homeless person shall not be subject to criminal or civil sanctions, arrest, or harassment by law enforcement, public or private security personnel, or <b>BID agents</b>.</p>	
<p>53.4 (a) Every local government and</p>	

<p>disadvantaged unincorporated community within the state shall have sufficient health and hygiene centers available 24 hours a day, seven days a week, for use by homeless people. These facilities may be a part of the Neighborhood Health Center Program.</p> <p>(b) For purposes of subdivision (a), the health and hygiene centers shall be funded by the State Department of Public Health through those county agencies that oversee public health programs, and, at a minimum, shall contain public bathroom and shower facilities.</p> <p>(c) The State Department of Public Health shall distribute public bulletins and notices identifying the facilities to be used as health and hygiene centers.</p> <p>(d) For purposes of this section, "disadvantaged unincorporated community" shall be defined as in Section 65302.10 of the Government Code.</p>	
<p>53.5. (a) To ensure equitable and cost-effective enforcement of the Homeless Person's Bill of Rights and Fairness Act (Ch.____, Stats. 2013), every local law enforcement agency shall annually compile and review the number of citations, arrests, and other enforcement activities made pursuant to laws prohibiting the following:</p> <ol style="list-style-type: none"> <li>(1) Obstructing a sidewalk, whether by a person or personal property.</li> <li>(2) Loitering.</li> <li>(3) Sitting.</li> <li>(4) Lying down.</li> <li>(5) Camping.</li> <li>(6) Public lodging, including the prohibition specified in subdivision (e) of Section 647 of the Penal Code.</li> <li>(7) Sleeping in a public place.</li> <li>(8) Soliciting donations.</li> <li>(9) Soliciting donations at certain restricted locations, including citing</li> </ol>	

<p>people for panhandling under Section 22520.5 of the Vehicle Code.</p> <p>(10) Bathing in public places.</p> <p>(11) Sharing or receiving food.</p> <p>(12) Inhabiting or sleeping in a vehicle.</p> <p>(13) Violating public park closure laws.</p> <p>(14) Crossing streets or highways at particular locations, including subdivisions (c) and (d) of Section 21451 of, subdivision (d) of Section 21453 of, subdivision (b) of Section 21456 of, Section 21461.5 of, subdivision (b) of Section 21950 of, Section 21954 of, Section 21955 of, and subdivision (a) of Section 21956 of, the Vehicle Code.</p> <p>(15) Trespassing, unless the trespassing charge is coupled with any misdemeanor or felony, except those misdemeanors that are included in Section 372 of, and subdivisions (h) to (j), inclusive, and subdivisions (l) and (m), of Section 602 of, the Penal Code.</p> <p>(16) Failing to appear, pay a fine, post bail, or comply with a condition of a court order, as described in Section 40508 of the Vehicle Code or Section 853.6, 853.7, or 853.8 of the Penal Code.</p> <p>(17) Any other local or state law enforced against homeless persons and identified by the Attorney General's office, or a city attorney's office.</p> <p>(b) A local law enforcement agency shall make this information publicly available under the terms set forth in the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the</p>	
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<p>Government Code).</p> <p>(c) A local law enforcement agency shall report the information specified in this section to the Attorney General's office on an annual basis.</p>	
	<p>SEC. 4. Section 647 of the Penal Code is amended to read:</p> <p><b>647.</b> Except as provided in subdivision (l), every person who commits any of the following acts is guilty of disorderly conduct, <b>a misdemeanor</b>:</p> <p>(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.</p> <p>(b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution.....</p> <p>...</p> <p>(c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.</p> <p>(d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.</p> <p>(e) <b>Who lodges in any building, structure, vehicle, or place without the permission of the owner or person entitled to the possession or in control of it.</b> This subdivision does not apply to conduct that is protected pursuant to Section 53.81 of the Civil Code.</p>

	<p>(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.</p> <p>(g) When a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision shall not apply to the following persons:</p> <p>(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.</p> <p>(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).</p> <p>(3) Any person who a peace officer in good faith believes will attempt escape</p>
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	<p>or will be unreasonably difficult for medical personnel to control.</p> <p>(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.</p> <p>(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.</p> <p>(j) (1) Any person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision shall not apply to those areas of a private business used to count currency or other negotiable instruments...(2)(3)(4)(5)</p> <p>(k) In any accusatory pleading charging a violation of subdivision (b), if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading. If the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the</p>
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	<p>defendant, the defendant shall be imprisoned in a county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 45 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 45 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 45 days in confinement in a county jail...</p> <p>(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.</p> <p>(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.</p> <p>(m) (1) If a crime is committed in violation of subdivision (b) and the person who was solicited was a minor at the time of the offense, and if the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both</p>
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	<p>that fine and imprisonment.</p> <p>(2) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this subdivision. If the court reduces or eliminates the mandatory two days' imprisonment, the court shall specify the reason on the record.</p>
	<p>SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code._____</p>